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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,596	12/20/2005	Graham R. Purkins	58847US004	9799
32692	7590	12/13/2010		
3M INNOVATIVE PROPERTIES COMPANY				
PO BOX 33427				
ST. PAUL, MN 55133-3427				
EXAMINER				
LEE, EDMUND H				
ART UNIT		PAPER NUMBER		
1744				
NOTIFICATION DATE		DELIVERY MODE		
12/13/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com

LegalDocketing@mmm.com

### Office Action Summary

**Application No.**

10/561,596

**Applicant(s)**

PURKINS ET AL.

**Examiner**

EDMUND H. LEE

**Art Unit**

1744

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17, 19-21, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17, 19-21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/5/10 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17,19,20,21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leys et al (US 2002/0036017) in view of McPeak et al (USPN 6880808).

The phrase "for a pressurized metered dose inhaler" found in the preamble has not been given patentable weight because it is not a manipulative feature of the claimed process. The recitation of an intended use does not amount to a claim limitation unless it results in a manipulative difference between the claimed process and the prior art.

See MPEP 2111.02.

In regard to claim 17, Leys et al teach the claimed process (paragraphs 0025 and 0031; fig 3) except using one of the claimed materials for the stem. McPeak et al teach a valve body and valve housing, wherein both body and housing are molding from PEEK or PAEK (patented claims 6 and 9 and 11). Since Leys et al and McPeak et al are analogous with respect to valves, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute PAEK for the PEEK of Leys et al since they are substitutable alternatives as taught by McPeak et al. In regard to claim 19, such is taught by Leys et al (paragraph 0023 and 0025 and 0031). In regard to claim 20, the use of a specific material is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative feature or step of the claimed process. Further, the claimed material is well-known in the molding and valve arts. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the claimed material into the process of Leys et al in order to mold diverse valves. In regard to 21, such is inherently taught by Leys et al (paragraphs 0025 and 0031; fig 3)--it should be noted that the valve stem has to be removed from the mold in order to be useable. In regard to claim 24, such is well-known in the molding art in order to reduce cycle time (i.e. freeing up the mold for subsequent molding cycles) or strengthening the molded article through annealing. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to subject the article of Leys et al to thermal treatment in order to reduce cycle time or strengthen the article. In regard to claim 25, such is well-known in the molding art as an efficient means for

molding and overmolding. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to injection molding either the stem or seal of Leys et al in order to efficiently form the article of Leys et al.

4. Applicant's arguments with respect to claims 17,19-21, and 24-25 have been considered but are moot in view of the new ground(s) of rejection.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following teach the state of the art: 5456830; 5772085; 2002/0190085.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571.272.1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE  
Primary Examiner  
Art Unit 1744

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